

Great American Public Sector

# Safe Connections



Public Sector



## Your Drone May Have You Covered . . . But Are You?

The more you watch or read the news, the more you hear about the increasing use of drones. Amazon is pursuing drone package delivery technology. A drone crashed on the White House lawn causing security concerns. Even insurance companies are using drones to adjust property claims.

Drones, which are technically termed Unmanned Aerial Systems (UAS), are remotely piloted aircraft prevalent in the public sector industry, with municipalities and school districts using UAS for a variety of purposes:

- Police use UAS to track criminals or missing persons, reconstruct accidents, for search and rescue or to detect drug growing operations in desolate areas.
- Schools use drones to film marching band formations or football team plays, for science experiments or to provide aerial footage of special events like charity races or music festivals.

### *Your Exposure*

UAS pose a number of underwriting issues and related-liability exposures, such as

- Potential exposures related to collisions with people, buildings/objects or aircraft;
- Damage to UAS itself; and
- Tracking individuals without warrants.

There are also a number of privacy invasion issues related to filming private citizens, disclosure of information to third parties, traffic enforcement and data retention.

### *FAA Regulations*

The Federal Aviation Administration (FAA) has been working toward a plan to safely integrate commercial UAS since 2008. Earlier this year, it released a list of proposed regulations, and more recently an interim policy. While the final FAA regulations are not expected for several years, UAS technology is outpacing the governmental rulemaking process. This may result in potentially conflicting regulations from the federal, state and local levels.



At this point, the FAA general rule is that UAS cannot operate in national airspace without a Certificate of Waiver or Authorization (COA). Obtaining a COA involves an online application process that requires identifying the UAS's specific purpose.

In March of this year, the FAA issued an interim policy designed to speed up the authorization process and allow entities to start flying more quickly. Under the new policy, the FAA will grant a waiver to a UAS operator if the device:

- Flies at or below 200 feet;
- Weighs less than 55 pounds;
- Is operated during daytime;
- Is operated within visual line of sight of the operator; and
- Stays certain distances from airports/heliports, including five miles from an airport with control tower and three miles from a smaller airport with no control tower.

The proposed FAA regulations from earlier this year also suggest that the UAS may not operate over any people not directly involved in the operation, and to avoid large crowds and public gatherings. The proposed regulations, currently in the public comment phase, also suggest a minimal age requirement that operators be at least 17 years old and obtain a UAS operator certificate with a periodic aeronautical test. FAA data indicates the agency has issued more than 1,000 COAs for public entities: 45% are for state/local governments, 10% for education institutions and 45% for military/federal government entities.

### **Local Regulations**

In addition to the FAA regulatory process, many states and local entities are also regulating UAS. About half the states now have UAS laws, with most addressing law enforcement use. Beyond the state laws, there are also a number of cities, of varying sizes that have passed resolutions banning the unmanned aircraft, including Syracuse, NY and Charlottesville, VA.

### **ISO Coverage**

The Insurance Services Office (ISO) is leading the insurance industry's rulemaking process. ISO has filed six optional UAS endorsements for use with Commercial General Liability policies and can be applicable to policies written on or after June 1, 2015. The endorsements include policy language to either exclude or limit UAS coverage.

### **We Can Help**

Maneuvering through the multiple regulations and potential exposures can be tricky for public entities. As drone use becomes more and more a part of our everyday lives, it will become increasingly important to establish policies and procedures that comply with applicable regulations. Public entity pools and individual risks will also need to address the level of UAS liability coverage needed. The Public Entity Staff at Great American Insurance is available to answer your UAS questions and to assist with assessing your UAS exposures.

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